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ARIZONA CORPORATION COMMISSION

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DOCKETED

DATE: MARCH 13, 2001

DOCKET NO.: T-03258A-00-0236

MAR 13 2001

TO ALL PARTIES:

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Enclosed please find the recommendation of Administrative Law Judge Stephen Gibelli.
The recommendation has been filed in the form of an Opinion and Order on:

VERIZON SELECT SERVICES, INC. ET AL
(FACILITIES BASED)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and ten (10) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00** p.m. on or before:

MARCH 22, 2001

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

MARCH 27, 2001 AND MARCH 28, 2001

For more information, you may contact Docket Control at (602) 542-3477 or the Hearing Division at (602) 542-4250.

1

BRIAN C. McNEIL
EXECUTIVE SECRETARY

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 WILLIAM A. MUNDELL
CHAIRMAN

3 JIM IRVIN
COMMISSIONER

4 MARC SPITZER
COMMISSIONER

5
6 IN THE MATTER OF THE APPLICATION OF
7 VERIZON SELECT SERVICES INC. F/K/A GTE
8 COMMUNICATIONS CORPORATION FOR A
9 COMPETITIVE CERTIFICATE OF
CONVENIENCE AND NECESSITY TO PROVIDE
FACILITIES-BASED INTEREXCHANGE
TELECOMMUNICATIONS SERVICES IN
ARIZONA

DOCKET NO. T-03258A-00-0236

10 IN THE MATTER OF THE APPLICATION OF
11 VERIZON SELECT SERVICES INC. F/K/A GTE
12 COMMUNICATIONS CORPORATION FOR
13 AUTHORITY TO OPERATE AS A PROVIDER OF
ALTERNATIVE OPERATOR SERVICES IN
ARIZONA

DOCKET NO. T-03258A-97-0568

14 IN THE MATTER OF THE APPLICATION OF
15 VERIZON SELECT SERVICES INC. F/K/A GTE
16 COMMUNICATIONS CORPORATION FOR A
17 CERTIFICATE OF CONVENIENCE AND
18 NECESSITY TO PROVIDE COMPETITIVE
19 FACILITIES-BASED AND RESOLD LOCAL
EXCHANGE TELECOMMUNICATIONS
SERVICES IN ARIZONA THROUGHOUT THE
LOCAL EXCHANGE OPERATING AREAS OF U
S WEST COMMUNICATIONS, INC. AND
CITIZENS UTILITIES COMPANY AND
AFFILIATES

DOCKET NO. T-03258A-97-0545

20 IN THE MATTER OF THE APPLICATION OF
21 VERIZON SELECT SERVICES INC. F/K/A GTE
22 COMMUNICATIONS CORPORATION FOR A
23 CERTIFICATE OF CONVENIENCE AND
24 NECESSITY TO PROVIDE COMPETITIVE
RESOLD INTRASTATE
TELECOMMUNICATIONS SERVICES IN
ARIZONA

DOCKET NO. T-03258A-96-0492

DECISION NO. _____

OPINION AND ORDER

25
26 DATE OF HEARING: February 1, 2001

27 PLACE OF HEARING: Phoenix, Arizona

ADMINISTRATIVE LAW JUDGE: Mr. Stephen Gibelli

APPEARANCES: Mr. Thomas Mumaw, SNELL & WILMER, on behalf
of Verizon Select Services Inc.;

Ms. Teena Wolfe, Staff Attorney, Legal Division, on
behalf of the Utilities Division of the Arizona
Corporation Commission.

BY THE COMMISSION:

Having considered the entire record herein and being fully advised in the premises, the
Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. Verizon Select Services Inc. ("Verizon" or "Applicant") is a Delaware corporation,
authorized to do business in Arizona since 1994.

2. On September 12, 1996, Verizon, formerly GTE Communications Corporation, filed
with the Arizona Corporation Commission ("Commission") an application for a Certificate of
Convenience and Necessity ("Certificate") to provide competitive resold interexchange
telecommunications services in Arizona.

3. On October 2, 1997, Verizon filed an application for a Certificate to provide facilities-
based and resold local exchange services; and access services within the operating areas of U S
WEST, now Qwest Corporation, Citizens Utilities Company, and the affiliates of Citizens.

4. On October 17, 1997, Verizon filed an application for a Certificate to provide
alternative operator services within the State of Arizona.

5. On April 11, 2000, Verizon filed an application for a Certificate to provide facilities-
based interexchange services throughout the State of Arizona.

6. On June 8, 2000, a Procedural Order was issued consolidating the above filings.

7. Applicant filed Affidavits of Publication indicating compliance with the
Commission's notice requirements on June 19, 1997, November 12, 1997, and June 29, 2000.

8. On September 22, 2000, the Commission's Utilities Division Staff ("Staff") filed its
Staff Report, which recommended approval of the applications and included a number of additional
recommendations.

9. A hearing was held on February 1, 2001, and Applicant and Staff presented evidence.

1 10. Qwest and Verizon have not as yet reached an interconnection agreement.

2 11. The management of Verizon has many years of experience in the telecommunications
3 industry.

4 12. Applicant has the technical capability to provide the services that are proposed in its
5 application.

6 13. Currently there are several incumbent providers of local exchange, toll, and exchange
7 access services in the service territory requested by Applicant, and numerous other entities have been
8 authorized to provide competitive local exchange services in all or portions of that territory.

9 14. It is appropriate to classify all of Applicant's authorized services as competitive.

10 15. The Staff Report stated that Applicant has no market power and the reasonableness of
11 its rates would be evaluated in a market with numerous competitors.

12 16. According to Staff, Verizon submitted the unaudited financial statements of its parent
13 company, GTE Corporation for the quarterly period ended September 30, 1999. These financial data
14 list assets of \$48.27 billion, retained earnings of \$4.4 billion, total shareholders' equity of \$10.92
15 billion, and net income of \$1.3 billion on revenues of \$6.43 billion. On February 20, 2001, Verizon
16 filed a late-filed exhibit providing updated financial statements. These statements include
17 information for the nine months ending September 30, 2000, and list operating revenues of \$47.9
18 billion and net income of \$3.6 billion. Based on this information, Staff believes that Verizon has
19 sufficient financial strength to offer the requested telecommunications services in Arizona absent the
20 procurement of a performance bond.

21 17. Staff recommended, as amended at the hearing, that Verizon's applications for a
22 Certificate to provide competitive facilities-based and resold local exchange and interexchange
23 telecommunications services, as well as AOS services, be granted subject to the following conditions
24 that:

25
26 (a) Verizon file with the Commission, 30 days prior to providing service, its plan
27 to have its customers telephone numbers included in the incumbent's
28 Directories and Directory Assistance databases;

 (b) Verizon does not provide facilities-based local service, resold local service, or

access service in the service territory of any incumbent affiliate providing local service;

- (c) Verizon only provides facilities-based local service, resold local service, or access service in the service territories of Qwest, Citizens Utilities Company, and the affiliates of Citizens;
- (d) Verizon pursue permanent number portability arrangements with other LECs pursuant to Commission rules, federal laws and federal rules;
- (e) Verizon abide by and participate in the AUSF mechanism instituted in Decision No. 59623, dated April 24, 1996 (Docket No. RT-T--3258A-00-0236E-95-0498);
- (f) Verizon abide by the quality of service standards that were approved by the Commission for USWC in Docket No. T-0151B-93-0183;
- (g) in areas where Verizon is the sole provider of local exchange service facilities, Verizon will provide customers with access to alternative providers of service pursuant to the provisions of Commission rules, federal laws and federal rules;
- (h) Verizon be ordered to certify, through the 911 service provider in the area in which it intends to provide service, that all issues associated with the provision of 911 service have been resolved with the emergency service providers within 30 days of an Order in this matter;
- (i) Verizon abide by all the Commission Decisions and policies regarding CLASS services;
- (j) Verizon be ordered to provide 2-PIC equal access;
- (k) Verizon be ordered to notify the Commission immediately upon changes to Verizon's address or telephone number;
- (l) Verizon be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
- (m) Verizon be ordered to maintain its accounts and records as required by the Commission;
- (n) Verizon be ordered to file with the Commission all financial and other reports that the Commission may require, and in a form and at such times as the Commission may designate;
- (o) Verizon be ordered to maintain on file with the Commission all current tariffs and rates, and any service standards that the Commission may require;
- (p) Verizon be ordered to cooperate with the Commission investigations of customer complaints;
- (q) Verizon be ordered to participate in and contribute to a universal service fund, as required by the Commission;
- (r) for its AOS services, Verizon be authorized to charge the maximum rate in each mileage band, (respective of the day of the week and time of day)

currently authorized for any of the facilities-based interexchange carriers as set forth in Schedule 1 and for any of the intraLATA carriers as set forth in Schedule 2;

- (s) Verizon's AOS service charges be limited to the highest authorized maximum service charge of any of the facilities-based interexchange carriers as set forth in Schedule 1 and of any of the intraLATA carriers as set forth in Schedule 2, and;
- (t) for its AOS services, Verizon abide by the operator-dialed surcharge and property surcharge recommendations as stated in Schedules 1 and 2.

18. Staff further recommended that Verizon's tariffs be approved on an interim basis subject to the following:

- (a) That Verizon be required to file a consolidated tariff for long distance and AOS services in compliance with the Decision within 30 days of an Order in this matter. The tariffs should be approved on an interim basis.
- (b) That Verizon should be required to file in this Docket, within 18 months of the date it first provides service following certification, sufficient information for Staff analysis and recommendation for a fair value finding, as well as for an analysis and recommendation for permanent tariff approval. This information must include, at a minimum, the following:
 1. A dollar amount representing the total revenue for the first twelve months of telecommunications service provided to Arizona customers by Verizon following certification, adjusted to reflect the maximum rates that Verizon has requested in its tariff. This adjusted total revenue figure could be calculated as the number of units sold for all services offered times the maximum charge per unit.
 2. The total actual operating expenses for the first twelve months of telecommunications service provided to Arizona customers by Verizon following certification.
 3. The value of all assets, listed by major category, used for the first twelve months of telecommunications services provided to Arizona customers by Verizon following certification. Assets are not limited to plant and equipment. Items such as office equipment and office supplies should be included in this list.
- (c) Verizon's failure to meet the condition to timely file sufficient information for a fair value finding and analysis and recommendation of permanent tariffs should result in the expiration of the Certificate of Convenience and Necessity and of the tariffs.

19. On August 29, 2000, the Court of Appeals, Division One, ("Court") issued its Opinion

1 in Cause No. 1 CA-CV 98-0672 ("Opinion"). The Court determined that Article XV, Section 14 of
2 the Arizona Constitution requires the Commission to "determine fair value rate base ("FVRB") for all
3 public service corporations in Arizona prior to setting their rates and charges."

4 20. On October 26, 2000, the Commission filed a Petition for Review to the Arizona
5 Supreme Court. On February 13, 2001, the Commission's Petition was granted. However, at this
6 time we are going to request FVRB information to insure compliance with the Constitution should
7 the ultimate decision of the Supreme Court affirm the Court's interpretation of Section 14. We also
8 are concerned that the cost and complexity of FVRB determinations must not offend the
9 Telecommunications Act of 1996.

10 CONCLUSIONS OF LAW

11 1. Applicant is a public service corporation within the meaning of Article XV of the
12 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

13 2. The Commission has jurisdiction over Applicant and the subject matter of the
14 application.

15 3. Notice of the application was given in accordance with the law.

16 4. A.R.S. § 40-282 allows a telecommunications company to file an application for a
17 Certificate to provide competitive telecommunications services.

18 5. Pursuant to Article XV of the Arizona Constitution as well as the Arizona Revised
19 Statutes, it is in the public interest for Applicant to provide the telecommunications services set forth
20 in its application.

21 6. Applicant is a fit and proper entity to receive a Certificate authorizing it to provide
22 competitive facilities-based and resold intrastate telecommunications services in Arizona as
23 conditioned by Staff's recommendations as modified below.

24 7. The telecommunications services that the Applicant intends to provide are competitive
25 within Arizona.

26 8. Pursuant to Article XV of the Arizona Constitution as well as the Competitive Rules,
27 it is just and reasonable and in the public interest for Applicant to establish rates and charges which
28 are not less than the Applicant's total service long-run incremental costs of providing the competitive

services approved herein.

9. Staff's recommendations in Findings of Fact Nos. 17 and 18 are reasonable and should be adopted.

ORDER

IT IS THEREFORE ORDERED that the applications of Verizon Select Services Inc. for a Certificate of Convenience and Necessity for authority to provide competitive facilities-based and resold intrastate telecommunications services and AOS services in Arizona shall be, and is hereby, granted, as conditioned herein.

IT IS FURTHER ORDERED that prior to providing service, Verizon Select Services Inc. shall comply with all of the Staff recommendations set forth in Findings of Fact Nos. 17 and 18.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this ____ day of _____, 2001.

BRIAN C. McNEIL
EXECUTIVE SECRETARY

DISSENT
SG:mlj

1 SERVICE LIST FOR:

VERIZON SELECT SERVICES INC.

2 DOCKET NO.:

T-03258A-00-0236, et al

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